

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 7282**

**BILL NUMBER:** HB 1513

**NOTE PREPARED:** Feb 6, 2007

**BILL AMENDED:**

**SUBJECT:** Hours and Dates of Consumer Firework Use.

**FIRST AUTHOR:** Rep. Moses

**FIRST SPONSOR:**

**BILL STATUS:** CR Adopted - 1<sup>st</sup> House

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** This bill provides that a person who ignites, discharges, or uses consumer fireworks on any day other than January 1, July 3, July 4, July 5, or December 31 and other than at certain times on these dates commits a Class C infraction, or a Class C misdemeanor under certain circumstances.

**Effective Date:** Upon passage.

**Explanation of State Expenditures:**

**Explanation of State Revenues:** *Sales Tax Revenue:* The bill could affect revenues collected by the Department of Revenue (DOR) if limiting the use of fireworks to five days results in less sales tax collected on fireworks. From January through October 2006, an estimated \$2.6 M in Sales Tax had been collected on the sale of fireworks. Sales tax revenue is distributed as follows:

- 49.192% to the state General Fund
- 50% to the Property Tax Replacement Fund
- 0.635% to the Public Mass Transportation Fund
- 0.033% to the Industrial Rail Service Fund
- 0.14% to the Commuter Rail Service Fund.

*Public Safety Fees.* The bill could affect revenues collected by the DOR if limiting the use of fireworks to five days results in less public safety fees collected on fireworks. From January through October 2006, the DOR had collected \$2.2 M in public safety fees. The specific impact is indeterminable.

*Background on Public Safety Fees:* HEA1099-2006 provided that a public safety fee must be

imposed on retail transactions made in Indiana of fireworks. Persons who acquire fireworks in a retail transaction are liable for the fee on the transaction and must pay the fee to the retailer. The public safety fee must be deposited in the state General Fund. The fee is based on the gross retail income received by a retailer in a unitary transaction of fireworks and is imposed at the following rates.

Public Safety Fee	Gross Retail Income from the Retail Unitary Transaction
0	less than \$ 0.10
0.01	at least \$ 0.10 but less than \$ 0.30
0.02	at least \$ 0.30 but less than \$ 0.50
0.03	at least \$ 0.50 but less than \$ 0.70
0.04	at least \$ 0.70 but less than \$ 0.90
0.05	at least \$ 0.90 but less than \$ 1.10
5% of gross retail income	at least \$1.10

HEA1099-2006 appropriated \$1 M from the first \$1 M collected from public safety fees to the Department of Homeland Security (DOHS) to provide regional training for public safety service providers or advanced training programs during the period beginning July 1, 2006, and ending June 30, 2007.

HEA1099-2006 also appropriated from the public safety fees in excess of \$1 M, \$1 M to the DOHS beginning July 1, 2006, and ending June 30, 2007, to be used at the discretion of the DOHS executive director for deposit in the State Disaster Relief Fund to be used to pay for damage resulting from a disaster to a public facility; to be used to defray costs of response and recovery; or to be used to pay 25% of the costs required to be paid by local jurisdictions which have accrued as a result of a disaster.

The remaining revenue from the public safety fee is deposited in the state General Fund.

*Penalty Provisions:* If additional court cases occur and infraction judgments and court fees are collected, revenue to the state General Fund may increase. The maximum judgment for a Class C infraction is \$500, which is deposited in the state General Fund.

If additional court cases occur and fines are collected for a Class C misdemeanor, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class C misdemeanor is \$500. Criminal fines are deposited in the Common School Fund.

In addition to fines and judgments, if court actions are filed and a judgment is entered, a court fee of \$70 would be assessed for the Class C infraction (\$120 for the Class C misdemeanor), 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the judicial salaries fee (\$15), the public defense administration fee (\$3), the court administration fee (\$2), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund.

**Explanation of Local Expenditures:** The bill limits the use of fireworks to five days. Local units could experience a decrease in expenditures for public safety and emergency medical services that could result

from the reduced use of fireworks. The Indiana State Department of Health tracked fireworks injuries during 2003 and 2004. During that time, 454 injuries were reported statewide. The proposal could also reduce expenditures associated with local inspections and re-inspections of vendors and displays. The specific impact on local expenditures is indeterminable and would vary by location.

*Penalty Provisions:* A Class C misdemeanor is punishable by up to 60 days in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

**Explanation of Local Revenues:** *Penalty Provisions:* If additional court actions are filed and a judgment is entered for the Class C infraction or Class C misdemeanor, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$70 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

**State Agencies Affected:** State Fire Marshal's Office.

**Local Agencies Affected:** Trial courts, local law enforcement agencies; Local public safety and emergency medical services agencies.

**Information Sources:** Michelle Milliken, Legislative Liaison, DHS, 317.232.3241.

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